

The People vs. the FBI

"Sue the bastards!" might seem an unlikely slogan for American civil libertarians, but it is rapidly becoming the theme of the 1970s for one wing of that movement. Not many years ago it was the government that constantly hounded the Left (the Black Panthers, the Chicago Seven, Daniel Ellsberg, et al.) in political trials that had as their obvious aim the suppression of dissent. Now the tables are turned in pleasantly ironic fashion, and the legal counterattack is in full swing. On March 1, the most recent battle was joined when the National Lawyers Guild, filing a class-action suit in New York, charged the FBI, the CIA, various government departments and individual defendants including Nixon, Mitchell, Kleindienst and Helms with conspiracy to violate the civil rights of guild members. The guild is demanding damages in the millions of dollars, an end to official harassment, and the release of all information on the guild held in government files. The suit is not the first of this sort; it closely resembles those of the Black Panthers and the Socialist Workers Party. Nor is it apt to be the last.

The National Lawyers Guild is an organization of some 5,000 lawyers and law students devoted to using the law as an instrument of social change. Founded in 1937, it has a long record of providing legal help to poor and/or politically radical defendants. It was the first bar association to admit black members, and it operated an important legal office for the defense of civil rights workers in the South from 1964 to 1968. More recently the guild has represented Attica prisoners and members of the Native American Movement.

All these activities being subversive in the eyes of the Hoovers and McClellans of this world, the guild has long been under scrutiny. Just how much scrutiny, however, was not known until recently, when documents wrested from government files by means of the Freedom of Information Act (the passage of which is proving to be one of the most significant political events of the last decade) revealed the details. The FBI, et al., according to the guild's court complaint, infiltrated the guild, kept its members under physical and electronic surveillance, stole its documents, listed its members (simply because they were members) on the Security Index and its successor, the ADEX, subjected the guild to punitive tax audits, used Cointelpro methods to cause splits within the guild, intercepted communications between attorneys and clients, and committed a dozen other offenses.

Even given its by now familiar contents, the list is shocking; and Leonard Boudin, head of the team of lawyers which is bringing the suit, points out that it involves a dimension of civil rights that has not been covered by the suits brought previously: interference with the attorney-client privilege. In other words, not only has the FBI violated the rights of dissenters by innumerable forms of persecution; it has also tried to prevent dissenters from defending themselves in court, since the client's confidence in his attorney is crucial to an effective case. And the Cointelpro-style undermining of the guild must be seen as an attack on a vital segment of society of an important—often its only—source of legal protection.

Perhaps nothing has done more to make the American people distrust their government than this sort of abuse of power by security agencies. President Carter knew that well when he pledged during the campaign to restore our trust. What, then, can his administration do to end the state's meddling in the political lives of its citizens? A good beginning might be to read a booklet published last month by the Committee for Public Justice, entitled *A Law to Control the FBI*. The booklet points out that the FBI's duty is to enforce federal laws—so the first move toward ending the bureau's political role would be to repeal the infamous "speech laws," such as the Smith Act and the 1968 anti-riot act, that infringe on freedom of political expression.

Once deprived of its statutory excuse to spy on dissenters, the FBI should then be restrained by strict laws requiring the issuance of warrants based on probable cause before any subterranean techniques could be used in a criminal investigation. Civil liberties lawyers note that some of these measures could be accomplished administratively by Attorney General Bell; but in that case they could as easily be rescinded by an Attorney General of different mind. Carter should therefore press for legislation that lifts all restrictions on the nonviolent political activity of the people, and places strong restraint where it belongs—on the police.